

**INFORMATION SHEET  
 DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS  
 RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK  
 COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** New England District  
**FILE NUMBER:** NAE-2004-1083  
**REGULATORY PROJECT MANAGER:** Marty Lefebvre **Date:** 11 May 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office \_\_ (N) **Date:** \_\_\_\_\_  
 At the project site (Y) **Date:** 11 May 2004

**PROJECT LOCATION INFORMATION:**  
**State:** Vermont  
**County:** Franklin  
**Center coordinates of site by latitude & longitudinal coordinates:** 44.9216551 N; 73.1199346 W  
**Approximate size of site/property (including uplands & in acres):** 1.8 acres  
**Name of waterway or watershed:** Wetland

**SITE CONDITIONS:**

| Type of aquatic resource <sup>1</sup> | 0-1 ac | 1-3 ac | 3-5 ac | 5-10 ac | 10-25 ac | 25-50 ac | > 50 ac | Linear feet | Unknown |
|---------------------------------------|--------|--------|--------|---------|----------|----------|---------|-------------|---------|
| Lake                                  |        |        |        |         |          |          |         |             |         |
| River                                 |        |        |        |         |          |          |         |             |         |
| Stream                                |        |        |        |         |          |          |         |             |         |
| Dry Wash                              |        |        |        |         |          |          |         |             |         |
| Mudflat                               |        |        |        |         |          |          |         |             |         |
| Sandflat                              |        |        |        |         |          |          |         |             |         |
| Wetlands                              | 0.25   |        |        |         |          |          |         |             |         |
| Slough                                |        |        |        |         |          |          |         |             |         |
| Prairie pothole                       |        |        |        |         |          |          |         |             |         |
| Wet meadow                            |        |        |        |         |          |          |         |             |         |
| Playa lake                            |        |        |        |         |          |          |         |             |         |
| Vernal pool                           |        |        |        |         |          |          |         |             |         |
| Natural pond                          |        |        |        |         |          |          |         |             |         |
| Other water (identify type)           |        |        |        |         |          |          |         |             |         |
| _____                                 |        |        |        |         |          |          |         |             |         |

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

| Migratory Bird Rule Factors <sup>1</sup> :                                      | If Known |    | If Unknown<br>Use Best Professional Judgment |                       |                                |
|---|----------|----|--|-----------------------|--------------------------------|
|   | Yes      | No | Predicted to Occur                           | Not Expected to Occur | Not Able To Make Determination |
| Is or would be used as habitat for birds protected by Migratory Bird Treaties?  |          |    |  | X                     |                                |
| Is or would be used as habitat by other migratory birds that cross state lines? |          |    |  | X                     |                                |
| Is or would be used as habitat for endangered species?                          |          | X  |  |                       |                                |
| Is used to irrigate crops sold in interstate commerce?                          |          | X  |  |                       |                                |

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary \_\_ Or **Approved X.**

**ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):** The 1.8-acre site is located off the east side of Dunning Street and is property formerly owned by the adjacent church. The site is bounded by the church, a cemetery, Dunning Street, and private homes. Most of the site is now mowed lawn, with the northern portion wooded. Vegetation in the mowed portion of the site was upland. In the wooded portion of the site, I noted sensitive fern and mosses in some areas of the understory. I also noted occasional buttressing of tree roots. After checking the soils, I concluded that there were scattered wetland patches in this wooded area. I estimated a maximum of about 0.25 acre of the site was probably wetland. A windshield survey of the surrounding neighborhoods revealed no ditches or culverts draining the site. A check of the USGS quadrangle indicated that the Missisquoi River was separated from the site by city streets and at least 600' from the site. The only other surface water shown on the quad was a small intermittent stream about 1300' north of the site. I concluded that the wetlands on the parcel were isolated and therefore not jurisdictional.